UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/C.12/1990/SR.17
5 February 1990

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourth session

SUMMARY RECORD OF THE 17th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 25 January 1990, at 3 p.m.

Chairman: Mr. BADAWI EL SHEIKH

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GE.90-15329/1498B

The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS (agenda item 6):

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

India (E/1988/5/Add.5) (continued)

1. The CHAIRMAN invited the representative of India to continue his replies to members' questions and comments on India's initial report concerning articles 13-15 of the Covenant (E/1988/5/Add.5).

2. Mr. GOPALAN (India) said that he would begin by answering the remaining questions on the list presented by Mr. Simma.

3. One question related to the schools participating in "Operation Blackboard". An article in the magazine India Today disclosed that, of 13,271 schools surveyed under the scheme, more than 10,000 did not meet the target laid down for the Operation. The aim of the scheme was to provide schools with a basic infrastructure, in terms both of additional teaching staff and more adequate premises. Once the requirements had been ascertained, funds from the central Government were directed, via the authorities at State level, to the schools most in need of assistance.

4. With regard to enrolment of pupils by sex, he said that, while 30 per cent of places in schools were allocated to girls, girls attending school in fact made up only 26 per cent of the total enrolment.

5. Turning to the issues raised orally in the Committee, he said that Mrs. Jiménez Butragueño had asked whether there was not some element of discrimination in the Government's policies with regard both to women and to the question of caste. In his personal view, that was not the case, although in the field of education Indian society traditionally gave priority to males. At the same time, attitudes were undoubtedly changing: a sense of fairness and a concern to ensure equality of opportunity in education prevailed in Government policy, which in that regard reflected the attitudes of society at large. A similar concern could be seen in the Government's efforts to bring education within reach of the scheduled tribes.

6. The Government also had programmes aimed at enhancing the status of women, particularly in the field of employment.

7. Mrs. Jiménez Butragueño had also asked whether children from different religious backgrounds and different castes found it difficult to mix socially in schools. Taking the residential schools in rural areas as an example, experience had shown that such differences in no way constituted an obstacle to social interaction.

8. Details had also been requested on the participation of women in education, and in that connection he drew the Committee's attention to the information provided in table 6 on page 5 of the document which his Government

had submitted as a supplement to its report. It was evident from the statistics provided that participation of girls in secondary and higher education was much lower than was desirable, but his Government was making every effort to redress that imbalance.

9. In connection with the question of discrimination against "untouchables", he said that legislation to prohibit such discrimination had indeed been enacted, and that his understanding was that the incoming Government intended, like its predecessors, to pursue the goal of consolidating the relevant provisions of the law in that regard. Attitudes in rural areas regarding caste, however, tended to remain conservative, and change would only come about through education.

10. He said that, working as he did in the field of education, he did not feel qualified to claim that there was no discrimination against women in respect of access to health services. It was his impression, however, that if women were disadvantaged in that regard it was as a result of the priorities established within the family: the Government's policy was to make health services available to all segments of the population.

11. Questions relating to the provision of school textbooks had also been asked. Textbooks were not normally supplied free of charge, but they were not expensive, thanks to a system of Government subsidies to offset the costs of publication. The Government had, however, imposed a ceiling on the subsidy, thus reducing its effectiveness as a measure for ensuring equal educational opportunity.

12. As stipulated by the Constitution, primary education was conducted in the mother tongue of the pupils, and textbooks were published in local languages. Public education was entirely secular, but in educational institutions even partly funded by Government grants no religious instruction could be included in the curriculum without the consent of parents. A secular educational policy was the soundest possible guarantee of a democratic society.

13. It had been asked, in view of the country's cultural diversity, what efforts the Government had made to ensure that India's cultural heritage was accessible to the general public. The Government had encouraged popular festivals to promote awareness of the national culture. In particular, a series of television programmes had been devoted to the ancient Hindu epic, the Mahabharata, and stories from the Bible were also providing material for television productions in his own State, Kerala.

14. With regard to copyright and patent law, he said that litigation in all such cases fell within the competence of a statutory body constituted under the law relating to corporations.

15. In reply to Mr. Fofana, he said the three-language formula had been initiated in 1961 and was under implementation throughout the country. First, all pupils learned English, which was given prominence for historical reasons and because of its international importance. The second language was Hindi, which was spoken by the majority of the people and therefore facilitated mobility in the social, political and economic fields. Third was each State's own regional language, which the children automatically learned as their mother tongue. There were also facilities for learning classical languages

such as Sanskrit, other living languages such as Urdu, which was predominant in certain areas, and foreign languages such as French, German, Arabic and Spanish. The question of mobility did not generally arise until university level, when most students were sent out of their State for higher and technical education. However, even at school level, children were given exposure to languages and culture of other parts of the country through the "twinning" of schools in different regions of the country.

16. Concerning education of handicapped children, the Government's policy was increasingly to attempt to keep children in the regular school system, depending on the extent of their disability. That was to help them gain confidence and become part of the mainstream of Indian life. For that reason, the Government had implemented a scheme called "Integral Education for the Disabled", which provided assistance to State governments primarily for hiring specialized teachers and persons to take the children to and from school.

17. In reply to Mr. Glaiel, he said that India had a common school system which aimed at providing comparable education to all children. There was also a non-formal system, begun in 1971, in which 400,000 pupils were enrolled. Every year 30,000 pupils sat the examinations for the non-formal programme. That included over 18,000 pupils belonging to scheduled castes and scheduled tribes. The per capita cost of the programme was approximately 500 rupees.

18. In reply to the question whether the Indian educational system was centralized, he said that with the exception of higher education, the system was entirely decentralized. The central Government legislated only in respect of higher education and standard-setting. Standards were set primarily by the University Grants Commission, which ensured the orderly development of the higher educational institutions, and the All India Council of Technical Education, which had statutory authority to enforce standards in technical educational institutions. In reply to another question, he said that free and compulsory education for all children up to the age of 14 was a reality in 14 States and that college-level education was mostly free. The problem was not legal but economic, in that many families needed the income provided by their working children and were unable to release them for school. An exception was Kerala, due to the high value placed on education by the Christian missionaries traditionally active in that State. However, the Government was doing its best, and he was confident that the situation would change with time.

19. Another question had concerned absenteeism. It was precisely to deal with the problem of absenteeism realistically that the non-formal education system had evolved. Numerous centres were in operation, each run by an instructor who used special teaching materials, developed by educational resource experts, that covered subjects such as basic literacy, numeracy, etc. Care was taken to link the non-formal system to the formal system at every stage so that it would not become a second-rate system. The hours and location of the non-formal system were flexible so as to allow for the children's work duties (harvesting, cashew-shelling, etc.). There was an immense and administratively complex problem in attracting children to the non-formal system, and the Government was making a sincere effort to do so.

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20. In reply to a question concerning the extent of private education in India, he said that 85 per cent of investment in education was provided by the Government and 15 per cent by private sources. In that connection he drew members' attention to pages 55 and 56 of the document provided by the Department of Education. He noted that the States with the highest percentage of private schools, namely Kerala, Andhra Pradesh, Neghalaya, West Bengal and Tamil Nadu, were the States having the highest amount of missionary activity. With regard to the separate financial provision in the Constitution for the Anglo-Indian community, he said there had been a need, after independence, to reassure that community that it was as much a part of India as other communities. In general, the Government's policy was not to discourage private education but to recognize it wherever possible and encourage it through grants in aid. Private education was not religious- or ethnic-based unless a school had been established with that specific objective in mind.

21. Replying to Mr. Rattray's questions, he said the Government's benchmarks were reflected in a 1985 document entitled "The Challenge of Education". Unfortunately, the 1986 policy goals had not been achieved, primarily because of lack of resources. A large number of centrally-sponsored educational schemes had been undertaken, which involved providing resources to State governments for a five-year period after which they were expected to take over the cost themselves. An example was "Operation Blackboard". Because of resource constraints, it would be necessary to review goals and reassess targets, and the present Government had committed itself to do so.

22. In reference to Mr. Muterahejuru's questions concerning the 1986 national educational reform, the "Challenge of Education" document had been circulated throughout the country and reviewed in workshops and seminars attended by people from many different walks of life. After their findings had been approved by the Central Advisory Board of Education, a 50-year-old institution made up of the cabinet ministers and the ministers of education of all the States, a programme of action had been prepared by 23 task forces of experts and approved by Parliament in May 1986. Therefore, not only did the present policy reflect the will of the people, but a periodic review had been provided for. It was hoped that, whatever direction the reform took, the problem of differences between the poor and the élite would be given consideration.

23. On the subject of scholarships, it had been asked whether expatriate Indians received special treatment. The Government of India offered a number of scholarships to foreign nationals of Commonwealth and non-Commonwealth countries. Expatriate Indians who were generally nationals of the country in which they lived, would be eligible for scholarships under one of those headings but there were no special arrangements for them. The total sum spent on scholarships amounted to only 130 million rupees. However, there were a number of schemes to cover scheduled castes and tribes, which were described on page 30 et seq. of the Department of Education document which had been circulated. A question had also been asked about education for peace. Peace studies were mainly the concern of Government-sponsored research institutes such as the Social Sciences Research Institute, the Historical Research Institute and the Philosophy Research Institute. In schools, the topic of co-operation with other countries was covered in social science lessons.

24. On the subject of culture, it had been asked why India, which was a large producer of films, did not tend to sell them abroad. The fact was that with a population of 800 million, India itself was a vast market for films and Indian film producers did not feel the need to concern themselves with foreign standards and foreign tastes. To the extent that Indian films were exported, it was mainly to expatriate communities in Africa and the Caribbean. Indian culture was characterized by eroticism, both in literature and in architecture. The presentation of sex was often not to foreign tastes. Like the popular tales of young men growing up to wreak vengeance on the enemies of their family, it appealed to the imagination of the common man.

25. The CHAIRMAN thanked the representative of India for his lively answers to questions and stated that the Committee's concluding observations on the Indian report would be communicated to the Government of India.

26. Mr. Gopalan and Mr. Dayal (India) withdrew.

Colombia (E/1986/4/Add.25) (continued)

27. Mr. ALVAREZ VITA, presenting the overview for the concluding observations on the Colombian report, said that the Colombian report and the additional information provided by the Colombian delegation referred to violence, drug traffic and external indebtedness which had limited but not halted progress in the enjoyment of human rights, particularly in respect of efforts to extirpate absolute poverty. The list of issues had contained 41 questions; in addition, the representative of the ILO and members of the Committee had asked oral questions covering a range of subjects from social and economic inequality to endemic disease, child labour and indigenous populations. The representative of one non-governmental organization had expressed concern about the housing situation. Legal aspects of the application of the Covenant had also been discussed. Only eight members of the Committee had participated in the discussion: the written report was well drafted, if regard was had to the situation prevailing in Colombia at the time of its preparation, but the view had been expressed that it was not sufficiently wide-ranging. The Colombian representative had amplified and updated the information contained in the report and had replied to every one of the questions on the list of issues. He had also replied to most of the oral questions and promised additional information. Five members of the Committee had expressed the wish to have answers to pending questions and had congratulated the Colombian representative.

28. He had found it difficult to prepare the overview given the diversity of opinions expressed.

29. Mrs. JIMENEZ BUTRAGUEÑO said that by its reference to five members congratulating the Colombian representative the overview gave the impression that there had been a lack of unanimity in the Committee. In her opinion, the Chairman should thank country delegations on behalf of the entire Committee. The Colombian report itself was mainly descriptive and did not reflect the realities in the country. The oral presentation had been better, but the representative had left unanswered a question by Mr. Texier about paramilitary militia and two questions which she herself had asked on the protection of workers in the informal sector and the modest progress which had been made in

providing social security. She would stress the importance of States parties submitting their oral presentation in writing and of having the working documents available in all the official languages. In conclusion, she said that the Committee must not discriminate between one developing country and another. It was important to share out the work among members of the Committee but every member should be able to write a summary of a country's report and its delegation's answers to questions. Perhaps a greater distance from the State party concerned would result in greater objectivity: in any case, other Committee members could fine-tune the draft.

30. Mr. ALSTON said it was inevitable that the evaluations adopted by the Committee would be of a complex nature, since there would never be unanimous agreement among its members: the Committee should not eschew such complexity. He had reservations about the utility of recording the number of members who spoke and even more so those who offered congratulations, which was merely part of the United Nations tradition of courtesy. The comprehensive list of issues sent to each delegation appearing before the Committee had reduced the need for Committee members to ask oral questions. The fact that only eight had done so in the case of Colombia should not be taken either as a favourable or unfavourable indication. If the pre-sessional Working Group were convened some time ahead of the Committee's session, the States parties concerned would be able to submit additional information in time for translation into the various official languages. Furthermore, the Committee's own procedures were still immature: it needed to make its guidelines more precise and its questioning more sophisticated. Until that happened, it was inevitable that there would be disparities between the evaluation of one report and another. In the case of Colombia, he had felt that there had been a resort to generalities in most of the replies given by the Colombian representative. The result had been not a dialogue but rather a monologue on the problems of developing countries generally. Precise questions should lead to precise answers and as a rule the longer the answer, the smaller its content. The answers by the Colombian representative had fallen into that category.

31. Article 4 of the Covenant contained a limitations provision prescribing conditions that must be satisfied if a State was to derogate from its obligations. If a State pleaded special circumstances, the Committee could evaluate that claim in the light of article 4. However, in the case of Colombia, no such claim had been made, and its basic obligations under the Covenant must therefore be complied with. Economic austerity packages clearly imposed an additional burden on States. In such circumstances, economic, social and cultural rights, and the need to provide a safety net for the poorest, took on still greater importance. Yet the representative of Colombia had attempted to invoke the prevailing climate of austerity as grounds for exempting the Government from its responsibility to promote the well-being of the poorest.

32. Mr. TEXIER agreed that the Committee's final report should not reflect congratulations offered to delegations, or enumerate the number of questions put. One purpose of the pre-sessional Working Group was precisely to reduce to a minimum the number of questions put.

33. The written report submitted by Colombia was insufficiently precise. The same was true of the written and oral replies by the Colombian delegation. The representative of Colombia had pleaded the country's poverty as an excuse

for its failure to comply fully with the Covenant. The truth was that the country had very considerable economic and industrial potential, and that its problems often stemmed more from failure fully to exploit existing opportunities, as in the case of implementation of the legislation on agrarian reform. The Committee's final assessment should concentrate on the form and content of the written report and of the replies, and on the efforts made by Colombia to comply with the Covenant. It should reflect the Committee's dissatisfaction, and should note the promise by the Colombian representative to provide additional information.

34. The CHAIRMAN said that Mr. Texier's comments would be reflected in the final report of the Committee.

35. Mr. MARCHAN ROMERO pointed to a shortcoming in the Committee's working methods. It sought detailed replies from States to the questions formulated by the pre-sessional Working Group, and allowed States plenty of time in which to provide those replies. Yet its comments on those replies were formulated when the representatives of the State were no longer present. If the Committee were able to react immediately to replies which it regarded as inadequate, then it would be able to take full advantage of the available opportunity for dialogue with the delegation, and to insist that a satisfactory response should be provided. That goal could be achieved if the Committee were to receive and study a delegation's written responses well before their submission at the meeting.

36. The CHAIRMAN said that account would be taken of Mr. Marchan Romero's remarks when the Committee turned again to consideration of the organization of its work.

37. Mr. ALVAREZ VITA, summarizing members' comments, responded first to Mrs. Jiménez Butragueño. She had claimed that no mention was made in his draft overview of the question regarding the activities of paramilitary groups. In fact, it figured in the section of the report referring to the activities of Government forces of order. If she so wished, he saw no objection to including the term "paramilitary". He apologized for failing to include her question on scant social security coverage, and asked her to forward it to him in writing.

38. Mrs. Jiménez Butragueño had also raised the important point that there should be no disparity in the Committee's procedure in dealing with reports by States parties. In actual fact, there had been enormous disparity in the treatment of reports coming before the Committee, which was frequently guilty of overlooking its own precedents. References to the congratulations offered to delegations had been included in his report precisely because of his conviction of the need to eliminate them from the Committee's final report.

39. In his view, a number of the remarks made that day with regard to the Colombian report should more appropriately have been put to the Colombian representative during the second round of questioning. If judgement was to be passed in the absence of the representatives, then States had no right of defence. He wished formally to propose that the Committee should invite the representative of Colombia to resume a place at the Committee table, in order to inform him of members' opinions regarding his country's report, and so as

to give him an opportunity to reply. He further proposed that the invitation should constitute a precedent, and that all representatives should have the opportunity to exercise their right of defence. Only then could the Committee speak authoritatively on the substance of a report. In the context of updating its work methods, the Committee should consider submitting controversial proposals such as the present one to a vote. In any case, it should not continue to operate without hard and fast rules in a way that detracted from its credibility.

40. Mrs. JIMENEZ BUTRAGUEÑO said that she had received no replies to her questions to the representative of Colombia on protection for workers in the informal sector and on unemployment insurance. She herself had been rapporteur on the only previous occasion when a matter had been put to the vote. The experience had been far from agreeable. She favoured taking decisions by consensus, unless the matter was one of extreme importance, which was not the case in the present instance. The Committee should strive to maintain the spirit of co-operation it had shown in previous years. The Economic and Social Council should be alerted to the need to schedule the meeting of the pre-sessional Working Group well ahead of the session itself.

41. Mr. TEXIER conceded that the Committee's working methods could perhaps be criticized. Its habitual procedure, whereby dialogue with the representative of a State party was followed by deliberations in closed session, resembled that to which he was accustomed in his capacity as a judge. While not accepting the contention that a State had no opportunity to defend itself, he agreed that the Committee should raise any criticisms while the representative was still present, if only to allow him an opportunity to reply to them in writing. Furthermore, if members failed to voice their criticisms publicly, it would be difficult for them to do so subsequently, in the final report.

42. Mr. ALVAREZ VITA said that the discussion had confirmed his assertion that the Colombian report differed from other reports before the Committee in many respects. In his draft, he had stated that experts had requested responses to questions to which answers had not yet been received. He assured Mrs. Jiménez Butraqueño that her question on the informal economy was an extremely special case, which had been excluded only because its inclusion would have involved reproducing the proceedings of an entire meeting virtually in extenso.

The meeting rose at 6.05 p.m.